

The CASE of many Thousands of His Majesty's Subjects, who for Valuable Considerations are Entitled, under the Letters Patents of King *Charles* the Second, to Annual Sums out of the Hereditary Revenue of Excise.

- IN the Nineteenth Year of the Reign of His late Majesty King *Charles* the Second, passed an Act of Parliament for Assigning Orders in the Exchequer, without Revocation, made, as is therein expressed, for the Advantage of the Trade of this Kingdom; and for Seven Years to give Credit to His Majesty's Exchequer; also for payment of Moneys that should be Charged on any Branch of His Majesty's Revenue, &c. The said Act encouraged several Goldsmiths and Others to Advance great Sums to serve publick Occasions, which had not been advanced, but upon the Reputation of that Act. But notwithstanding the Encouragement given in that Act, His said Majesty in Council, on the Second of *January* 1672, declared, That his Necessities forced him to postpone Payments of Money for One Year; And to that purpose was then published his Declaration, to put a stop to Payments in the Exchequer, and to Command the Lords of the Treasury, that they should employ and dispose of all the Moneys so stopped, for setting forth, and payment of the Fleet, and other publick Services, in order to the Preservation and Safety of His Majesty's Government, and Defence of His People.
- By the said unusual stop upon Payments in the Exchequer, the said Goldsmiths were unable to pay their Debts: Whereupon His Majesty, to Remove the great Difficulties which very many of His Subjects lay under by the said stop of Payments; And for want of a more effectual Relief, was pleased in *April* 1676, to direct the then Lord High Treasurer to cause the Accounts of those persons whose Payments in the Exchequer were so stopped, to be truly Examined, and exactly Stated; which Matter his Lordship referred to the Consideration of Sir *John Ernle*, Sir *Robert Howard*, *Charles Bertie* Esq; Sir *George Downing*, Sir *Charles Harbord* and Mr. Auditor *Aldworth*, (then Members of the House of Commons;) who having frequently debated, and seriously considered thereof, declared to his Lordship, That they were fully satisfied in each respective person's Account, and had nothing further to Offer or Object in relation thereto; And then, by his Lordship's Order, the said Auditor made up those several Accounts, with the Interest due thereon, to the First of *January* 1676, after the Rate of Six Pounds per Cent. per Annum; and each of the persons concerned, having Sworn to the Truth of his Account before One of the Barons of the Court of Exchequer, they were approved for passing Accounts, and under Oath faithfully to discharge those Offices of Trust: So they having in due Form passed those several Accounts, the Lord High Treasurer in *February* 1676, Reported them to His Majesty in Council.
- And in lieu and satisfaction of the Moneys due upon those Accounts to each Respective person, his said Majesty, by his Letters Patents under the Great Seal of *England*, did about *April* 1677, Grant to them, their Heirs and Assigns, and for the benefit of their Creditors, a yearly Rent or Sum for ever, payable out of the Hereditary Revenue of Excise, equal in Value to the Interest of each Respective Debt, after the Rate of Six Pounds per Cent. per Annum, with a Clause of Redemption upon his Majesty's paying the Principal-Money, with the Arrears of Rent: The said Rent or Annual Sums to be paid Quarterly upon Talleys to be struck in the Receipt of the Exchequer upon the Commissioners, &c. of the Excise; And his said Majesty, by the said Patents, Directs and Commands the Treasurer, &c. Barons and Officers of the Exchequer of the King, his Heirs and Successors, That they do from Time to Time perform all Acts necessary for the constant payment of the Money; and from time to time Levy and Strike Talleys without any further Warrant; so that those Yearly Sums may be constantly paid without any further or other Warrant, to be sued for from the King, his Heirs or Successors: And if the Money should happen to be paid into the Receipt of the Exchequer, that then the High-Treasurer, and Commissioners of the Treasury, Under-Treasurer, Chamberlains and Barons of the Exchequer for the Time being, and all other Officers and Ministers of the Exchequer, and of the Receipt thereof, are authorized and required to pay out of such Moneys as shall be so paid into the Exchequer, or elsewhere, so much as shall be in Arrear, without any further or other Warrant; and the said Payments to be preferred before any other Payment out of the same, by Vertue or Colour of any Warrant, Order or Directions whatsoever, of any After-date, excepting for the Management of the said Revenue, and about 36209 *l.* 15 *s.* 4 *d.* a Year to the then Queen-Consort and the Duke of *Tork*. Also his Majesty thereby Granted, That those Letters Patents should be Expounded and taken most favourably and beneficially for the Patentees, and their Assigns; also Covenanted to make further Assurance, if required: And on the 23d of *May* 1677, Ordered in Council, That the said Letters Patents should be printed, and made publick for the Information and Satisfaction of the Creditors of the said Goldsmiths.
- And pursuant thereto, the said Patentees, and their Assigns, were paid in the Reigns of King *Charles* the Second and King *James* the Second, to *Lady-day* 1683; but not any part since that time, notwithstanding all due Applications to that purpose. Which Occasioned the Proprietors to have many Thoughts which way to be Relieved: And upon their applying to the Members of the Honourable House of Commons, to know if it was not proper for them to Offer their Case to their Committee of Agrievances; They advised first to prosecute their Legal Remedy, which through great Difficulties hath been Effected by Ten Years Labour, and great Charge: Their Titles under the said Patents have been solemnly allowed to be good, by the several Judgments given in the Court of Exchequer, for the Patentees and their Assigns. And although by Writs of Error the said Barons Judgments were brought before the then Lord-Keeper of the Great Seal in the Exchequer-Chamber, where the Judges of the *King's Bench* and *Common Pleas* all agreed, That those Patentees, and their Assigns, have a Legal Title: Also all the Judges but One agreed, That the Jurisdiction of the Court of Exchequer (according to ancient Precedents) is sufficient, and ought to direct Payments of Money out of the Exchequer, or elsewhere, when a Legal Title is brought before them: But the said Judgments of the Barons being Reversed by the Lord-Keeper, and a Writ of Error being allowed in Mr. *Williamson's* Cause against the said Judgment of Reversal, the last Session of Parliament, the House of Lords had the Records of the said Proceedings brought before their Lordships; and upon their hearing Counsel on both sides, as also the Judges Opinions, their Lordships Reversed the said Lord-Keeper's Judgment of Reversal; and affirmed the Judgment of the Barons of the Court of Exchequer, and Remitted the same to the said Barons, to make Execution accordingly; which the Barons have also Awarded, by their Writ of Execution, carrying with it a *Liberate* or Warrant, to the Commissioners of the Treasury, and Chamberlains of the Receipt, to pay the Arrears to *Christmas* 1699; and that for the Quarterly payments after the said time, the said Commissioners, &c. should pay the said Talleys upon the Commissioners, &c. of the Excise, to the said *Williamson*, as they grow due, pursuant to the said Letters Patents; and accordingly Demands have been made by the said *Williamson* of the Commissioners of the Treasury, and Chamberlains of the Receipt, who have made payment thereon.

If Demanded, What does these Proprietors expect from the Parliament, now they are to provide for Deficiencies, and the Nation's Safety, &c.

It is Answered, They neither design to hinder other Business, nor expect any new Fund; but pray, that they may enjoy the Fruits of their Legal Estates, according to the Relief which the Law hath given them; and not be obstructed therein, by a Scruple made by the King's Counsel in the Court of Exchequer, when the Barons Awarded the said Writ of Execution: *Viz.*

That there is not any Saving for these Proprietors Estates out of the Hereditary Excise, which is one of the Revenues in the Act, for Granting to His Majesty a further Subsidy of Tunnage and Poundage, towards Raising the Yearly Sum of Seven hundred thousand Pounds, for the Service of His Majesty's Household, and other Uses, &c. And the Overplus is not to be disposed of without Authority of Parliament: So from thence they infer, That these Proprietors are thereby debarred the Payment of their Annual Rents or Sums, from *Christmas* 1699, when that Act Commenced, during His Majesty's Life; And the said Barons refusing to give their Opinions of the said Act as to this Matter, unless it were with the Rest of the Judges, they Awarded the said Execution for Payment out of the Money arising from the Hereditary Excise; Not otherwise disposed of, as applied by Authority of Parliament; nor forbid or restrained to be disposed of, or applied without Authority of Parliament.

Upon a Petition in the Honourable House of Commons (at the Passing that Act) for a Saving of these Proprietors Legal Rights, it was there debated, and agreed to be needless, because that Bill no ways affected their Estates, nor any Saving made therein for any other Persons, who are also Entitled unto several Estates from the Crown: However, to satisfy them it should not injure them, was put in the word *hereafter* in the Sentence, That all Grants and Dispositions whatsoever hereafter to be made of such Overplus, &c. shall be void; which their Counsel also took to be an Allowance of their Patents.

His Majesty having the Four and Twenty Thousand Pounds a Year, which is Excepted in their said Patents for the Duke of *Tork*; and also the Remainder of the Hereditary Excise, which was King *Charles* the Second's, after Payment of the said Patentees and their Assigns what due to them, they could not have been part of the Provision for His Majesty's Household, &c. unless the Act for Raising that Duty had been mentioned in the Preamble amongst the other Revenues, out of which His Majesty's said Seven Hundred Thousand Pounds a Year should arise; but all those Branches were His Majesty's Revenues, excepting the Customs therein mentioned, before that Act was made; so they neither needed Granting, or was thereby Granted to His Majesty, but stood in all respects betwixt the King and private Persons, in the same Condition as they were in, before the Passing of that Act.

The said Act did not Commence, until near Two years after it was Enacted, that the Talleys therein mentioned might first be paid; but there is not therein any word tending to a Resumption of any Grants or Annual Payments; nor a Saving for any persons Rights or Titles out of any of those Revenues, not so much as for Charges in Collecting; And in the Enacting-part is only an Appropriating of the King's Clear Money out of all those Branches of Revenue. But the said Scruple tends to the Ruin of Thousands of the Subjects of this Kingdom, by depriving them of the Fruits of their said Estates in Fee, unless they shall be Redeemed by Payment of the Principal-Money, and the Arrears thereof; Although in the said Act, neither their Persons nor Titles are so much as mentioned, nor any Reason therein given, for doing these Proprietors such an Injury, whose Titles being purchased for valuable Considerations, they are in no particular inferior to the best of Titles from the Crown.

Considerations on the Premises as followeth:

- I. That these Patentees Moneys which were advanced by Encouragement of the said Act of Parliament of the 19 *Car. 2di*, were in an unusual manner stopped in the Exchequer; and that they were forced for their Relief, to deliver up their former Orders and Securities; and in lieu thereof, to accept of Patents for Annual Sums payable out of the Hereditary Revenue of Excise.
- II. That the said Excise is neither part of the ancient Demesnes, nor came to the Crown by the Expence of either Subjects Blood or their Money; but it is an Estate in Fee, which was Granted by the Parliament to King *Charles* the Second, in lieu of the Court of Wards and Liveries, and Tenures in *Capite*, and by Knight's Service and Purveyance, which were Prerogatives thought grievous to the Subjects; and by the same Act released and discharged; so that Revenue was no ways appropriated to publick Uses.
- III. That these Patentees and their Assigns Titles to the said Annual Sums, and to the Arrears thereof, were approved of by Payments in the two last Reigns, and also since by the most Solemn Prosecution that could be at Law, and payment hath been made pursuant thereto: So these Proprietors have reason to expect the Fruits thereof, which they ought to have Annually, with preference in Payment, unless their Respective principal Sums, with the Arrears then due, shall be paid to the Owners thereof. And by the Act for Provision for His Majesty's Household, &c. the same is to arise out of the Clear Money, from those Branches of Revenue therein mentioned: But until the Queen-Dowager's 12209 *l.* a Year, and the 24000 *l.* a Year to the then Duke of *Tork*; as also the said Proprietors Annual Rents and Arrears thereof, shall be satisfied, there cannot arise any Clear Money out of the Hereditary Revenue of Excise.

These Proprietors having laid before the Honourable House of Commons their Just and Legal Titles, depend upon the Preservers of their Properties, that when the Act for Provision for His Majesty's Household, &c. shall be considered, their said Estates may be preserved to the Owners thereof; And the many Persons distressed for want thereof, Delivered from Hospitals, Gaols, and Beggary.